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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,581	03/16/2006	Doug Elliott	6.30.3233 PCT/ CA-US	6437

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EXAMINER
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NICHOLS II, ROBERT K

ART UNIT	PAPER NUMBER
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3754

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,581	<b>Applicant(s)</b> ELLIOTT ET AL.	
	<b>Examiner</b> ROBERT K. NICHOLS II	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/16/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because the use of the legal term "means" throughout the abstract.

Appropriate correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 recites the limitation "said movement " in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said screen " in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said taps " in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneible (1,225,856).**

Regarding claim 1, Schneible discloses a beverage dispensing assembly including light emitting means (i) adapted to project a beam of light generally upwardly, wherein the beam is adapted to communicate information to consumers (see figure 1, page 2, lines 34-44 and 127-130).

Regarding claim 7, Schneible discloses that movement of the beam results in successively traversing sequential elements of a message already located on a screen. Examiner notes that a light beam inherently illuminates, enhances and provides better viewing of whatever it shines on i.e. a surface or screen.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-4, 8-12, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneible (1,225,856), in view of Sundin et al. (US 4,285,028).**

Regarding claims 2-4, 8-12, 15, and 18-20, Schneible discloses a beverage dispensing assembly including in combination, a dispensing tap or faucet for dispensing a beverage, the tap having a handle (c) and a tap opening and closing mechanism or control valve (C) and being adapted to be attached to a counter, and light emitting means (i) adapted to project a beam of light generally upwardly, wherein the beam is adapted to communicate information to consumers (see figure 1, page 2, line 13-34 and page 3, lines 69-82).

Furthermore, Schneible discloses the beam of light projects or extinguishes through an information-containing member or insignia i.e. a star to be visible to the customer at all times. Schneible, further discloses the light beam displays information of the brand mark of the corresponding beer being dispensed (see figure 1, page 2, lines 94-108 and 123-130, and page 3, lines 1-11). However Schneible is silent to the teaching of the beam adapted to impinge on a displaying surface or screen means, wherein the screen means is a ceiling.

Sundin teaches a projection apparatus wherein an insignia or design 37 i.e. a sheep is assembled directly above the light emitting means 22. Sundin further discloses the light emitting means is adapted to project a beam of light upwardly through the

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insignia 37, for projection of the designed image onto the ceiling (see figures 1-2, and column 2, lines 20-24).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to provide the Schneible device with insignia directly above the light emitting means, as taught by Sundin, for providing final viewing of the projected image of the brand mark of the beverage onto a display surface being the ceiling.

Furthermore, absent is a teaching as to the criticality that the screen means is a ceiling, this particular arrangement is deemed to have been known by those skilled in the art since the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement. In re Kuhle, 526 F.2d 553,555,188 USPQ 7, 9 (CCPA 1975).

Regarding claim 17, Schneible discloses the beam is adapted to move in response to movement of the tap handle (c) (see page 2, lines 106-113).

**Claims 5 and 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneible (1,225,856), in view of Hirsch (US 3,401,596).**

Regarding claim 5, Schneible discloses all the elements of the claimed invention except the beam adapted to move within a vertically oriented cone having a cone angle of not more than about 60 degrees.

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Hirsch teaches a projection apparatus wherein a light emitting means is adapted to project a beam of light generally upward through an information-containing member 24, wherein the beam is adapted to impinge on a screen means (S). Hirsch further discloses the beam is adapted to move within the confines of a cone illustrated by dotted lines having a generally vertical axis (see figure 1, and column 2, lines 62-65). Examiner notes as recited on page 4 of Applicants specification the angle of the cone is dependent upon the location of the beam base.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a cone angle of not more than about 60 degrees for the beam to be adapted to move therein, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 6, Schneible discloses the light to be visible light (see page 2, lines 126-130).

**Claims 13, 14 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneible (1,225,856) in view of Sundin et al. (US 4,285,028), as applied to claims 2-4, 8-12, 15 and 17-20 above, and further in view of Hirsch (US 3,401,596).**

Regarding claims 13 and 16, the combination of Schneible and Sundin disclose all the elements of the claimed invention except the beam adapted to move within a vertically oriented cone having a cone angle of not more than about 60 degrees.

Hirsch teaches a projection apparatus wherein a light emitting means is adapted to project a beam of light generally upward through an information-containing member 24, wherein the beam is adapted to impinge on a screen means (S). Hirsch further discloses the beam is adapted to move within the confines of a cone illustrated by dotted lines having a generally vertical axis (see figure 1, and column 2, lines 62-65). Examiner notes as recited on page 4 of Applicants specification the angle of the cone is dependent upon the location of the beam base.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a cone angle of not more than about 60 degrees for the beam to be adapted to move therein, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 14, Schneible discloses movement of handle (c) causes the beam to move (see page 2, lines 106-113).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Black, Jr (US 7,267,444), Gotch et al. (US 5,586,691), Kleppin



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(US 3,752,192), Williams et al. (US 5,233,375), Ellery-Guy (US 5,934,223), Burnham (US 6,488,393), Hornblad et al. (US 5,412,547), Carbone (US 2,414,446) and Toney, Jr (US 7,147,345).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert K Nichols II/  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art  
Unit 3754